

AMENDED IN SENATE SEPTEMBER 3, 1999

AMENDED IN SENATE JULY 15, 1999

AMENDED IN SENATE JUNE 15, 1999

AMENDED IN ASSEMBLY MARCH 17, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 58

Introduced by Assembly Member Davis
(Principal coauthor: Senator Leslie)
(Coauthor: Senator Figueroa)

December 7, 1998

~~An act to add Section 2042 to the Business and Professions Code, relating to physicians and surgeons. An act to add Sections 2052.1 and 2052.2 to, and to add Chapter 1.6 (commencing with Section 920) to Division 2 of, the Business and Professions Code, relating to health care practitioners.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 58, as amended, Davis. Physicians and surgeons.

Existing law, the Medical Practice Act, provides for the certification and regulation of physicians and surgeons by the Medical Board of California. Existing law provides that any person who practices medicine, as described, without a valid certificate is guilty of a misdemeanor.

~~This bill would require any employee of a health care service plan, other than a specialized health care service plan, licensed under the Knox-Keene Health Care Service Plan Act~~

~~of 1975 who is responsible for the final decision regarding the medical necessity or medical appropriateness of any diagnosis, treatment, operation, or prescription to be a holder of a valid, unrevoked, and unsuspended certificate issued pursuant to the Medical Practice Act. By expanding the scope of an existing criminal statute~~

The bill would also enact the Leslie-Davis-Figueroa Medical Decision Accountability Act of 1999 requiring every health care service plan to employ or designate a medical director who meets specified qualifications.

This bill would also provide that, except as specified, any person who makes a decision regarding medical necessity or appropriateness that denies, significantly delays, terminates, or otherwise limits, in whole or in part any diagnosis, treatment, operation, or prescription without possessing at the time of so doing a valid, unrevoked, or unsuspended certificate to practice medicine is guilty of a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 2042 is added to the Business and~~
- 2 ~~Professions Code, to read:~~
- 3 ~~2042. Any employee of a health care service plan~~
- 4 ~~licensed under Chapter 2.2 (commencing with Section~~
- 5 ~~1340) of Division 2 of the Health and Safety Code, other~~
- 6 ~~than a specialized health care service plan, who is~~
- 7 ~~responsible for the final decision regarding the medical~~
- 8 ~~necessity or medical appropriateness of any diagnosis,~~
- 9 ~~treatment, operation, or prescription shall be a holder of~~

1 a valid, unrevoked, and unsuspended certificate issued
2 pursuant to this chapter.

3 ~~SEC. 2. No reimbursement is required by this act~~
4 ~~pursuant to Section 6 of Article XIII B of the California~~
5 ~~Constitution because the only costs that may be incurred~~
6 ~~by a local agency or school district will be incurred~~
7 ~~because this act creates a new crime or infraction,~~
8 ~~eliminates a crime or infraction, or changes the penalty~~
9 ~~for a crime or infraction, within the meaning of Section~~
10 ~~17556 of the Government Code, or changes the definition~~
11 ~~of a crime within the meaning of Section 6 of Article~~
12 ~~XIII B of the California Constitution.~~

13 *SECTION 1. Chapter 1.6 (commencing with Section*
14 *920) is added to Division 2 of the Business and Professions*
15 *Code, to read:*

16
17 *CHAPTER 1.6. LESLIE-DAVIS-FIGUEROA MEDICAL*
18 *DECISION ACCOUNTABILITY ACT OF 1999*
19

20 *920. This chapter shall be known, and may be cited,*
21 *as the Leslie-Davis-Figueroa Medical Decision*
22 *Accountability Act of 1999.*

23 *921. Every health care service plan shall employ or*
24 *designate a medical director who holds an unrestricted*
25 *license to practice medicine in this state issued pursuant*
26 *to Section 2050 of the Business and Professions Code or*
27 *pursuant to the Osteopathic Act, or, if the plan is a*
28 *specialized health care service plan, a clinical director*
29 *with California licensure in a clinical area appropriate to*
30 *the type of care provided by the specialized health care*
31 *service plan.*

32 *SEC. 2. Section 2052.1 is added to the Business and*
33 *Professions Code, to read:*

34 *2052.1. (a) Any person who makes a decision*
35 *regarding medical necessity or appropriateness that*
36 *denies, significantly delays, terminates, or otherwise*
37 *limits, in whole or in part any diagnosis, treatment,*
38 *operation, or prescription without possessing at the time*
39 *of so doing a valid, unrevoked, or unsuspended certificate*
40 *as provided in this chapter is guilty of a misdemeanor.*

1 (b) However, if the only person appropriately
2 qualified and competent to make such a decision in a
3 particular circumstance holds a valid, unrestricted, or
4 unsuspended license or certificate to practice medicine
5 issued in another state of the United States, then that
6 person may make the decision. In that case, the health
7 plan's medical director shall (1) make a finding in writing
8 that the only person appropriately qualified and
9 competent to make the decision in the particular case
10 holds a license to practice medicine in a state other than
11 California; and (2) provide an explanation in writing of
12 how and why he or she determined that no California
13 licensed medical professional was appropriately qualified
14 and competent to make the decision in the particular
15 case. The health plan's medical director shall be
16 answerable to the Medical Board of California for any
17 decisions made by any medical professional without a
18 license to practice medicine in California. Any medical
19 professional licensed in a state other than California who
20 makes a decision under this section shall consent to be
21 subject to the subpoena powers of the State of California
22 in the event that that person's testimony is required in a
23 California proceeding. When a decision is made that care
24 is medically necessary, treatments approved shall be
25 those that are appropriate for the unique needs of the
26 patient.

27 (c) This section applies only to the provisions of this
28 chapter, and does not alter or limit any theory of liability
29 or remedy otherwise available at law.

30 SEC. 3. Section 2052.2 is added to the Business and
31 Professions Code, to read:

32 2052.2. (a) Nothing in Section 2052.1 shall be
33 construed as limiting the practice of other persons
34 licensed, certified, or registered under any other
35 provision of law relating to the healing arts when that
36 person is engaged in his or her authorized and licensed
37 practice, as provided in Section 2061.

38 (b) Nothing in Section 2052.1 shall preclude actions
39 taken pursuant to Section 1370.4 of the Health and Safety
40 Code or Section 10145.3 of the Insurance Code.

1 (c) Nothing in Section 2052.1 shall apply to claim
2 decisions made under automobile, life, disability,
3 malpractice, or homeowners insurance policies.

4 (d) Nothing in Section 2052.1 shall be construed as
5 limiting the exercise of any treatment by prayer, nor as
6 interfering in any way with the practice of religion as set
7 forth in Section 2063.

8 (e) Nothing in Section 2052.1 shall apply to claim
9 decisions made pursuant to Division 4 (commencing with
10 Section 3200) of the Labor Code.

